

Magna Corporation and Oil, Chemical and Atomic Workers Local Union 4-367, AFL-CIO, Petitioner. Case 23-UC-115

April 9, 1982

DECISION ON REVIEW AND ORDER

BY CHAIRMAN VAN DE WATER AND
MEMBERS JENKINS AND HUNTER

On November 2, 1981, the Regional Director for Region 23 of the National Labor Relations Board issued a Decision and Order in the above-entitled proceeding in which he dismissed the unit clarification petition seeking to include an employee in the job classification "plant storeroom specialist" within the Petitioner-represented production and maintenance bargaining unit. Thereafter, in accordance with Section 102.67 of the National Labor Relations Board Rules and Regulations, Series 8, as amended, the Petitioner filed a timely request for review alleging, *inter alia*, that the Regional Director's community-of-interest analysis is inappropriate in this case and that Board precedent requires placement of the disputed classification in the "plant clerical" group which is specifically included within the bargaining unit description. The Employer filed a brief in opposition to the request for review.

By telegraphic order dated December 30, 1981, the Petitioner's request for review was granted. Thereafter, the Employer filed a brief on review.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the entire record in this case with respect to the issues under review and makes the following findings:

The Employer operates a chemical processing plant in Houston, Texas. On September 2, 1977, following a Board-conducted election, the Petitioner was certified as the exclusive bargaining representative of the Employer's production and maintenance employees.¹ The most recent collective-bargaining agreement between the parties, effective from January 8, 1980, through January 7, 1982, describes the bargaining unit as follows:

The Employer recognizes the Oil, Chemical and Atomic Workers Union, and its Local 4—

¹ The unit in which the Petitioner was certified as the collective-bargaining representative in Case 23-RC-4549 is described as follows:

INCLUDED: All production and maintenance employees, quality control employees and plant clerical employees and shipping clerks.

EXCLUDED: All other employees including office clerical employees, professional employees, safety coordinator, production coordinator, guards, watchmen and supervisors within the meaning of the Act.

367 pursuant to its certification by the National Labor Relations Board, Case No. 23-RC-4549, as the collective bargaining representative for all employees within the unit so certified, namely all production and maintenance employees, quality control employees, plant clerical employees and shipping clerks.

The single classification at issue is that of the plant storeroom specialist. The Regional Director found: (1) that the plant storeroom specialist does not share a community of interest with the bargaining unit employees; and (2) that, because this job classification existed at the time of the Petitioner's certification as representative and it has not undergone substantial change since that time, there exists no basis for clarifying the unit to permit inclusion of this position. The Petitioner contends that the Regional Director should have been guided by the plant clerical nature of the disputed classification rather than by a community-of-interest analysis and should have clarified the unit to include the position. For the reasons discussed below, we find merit in the Petitioner's contentions.

Only one individual, Charles I. Carney, is employed as a plant storeroom specialist, having occupied the position since beginning his employment with the Employer on November 4, 1980. Carney works in the plant storeroom, which houses the Employer's inventory of all types of equipment, parts, and supplies. The storeroom is a separate building located between the maintenance building and the production offices. Carney works under the direct supervision of Chief Engineer Davis. Davis also supervises the maintenance supervisor (Reed), who is the immediate supervisor of the bargaining unit employees. Carney works from 7 a.m. until 4 p.m. Monday through Friday, has no specified lunch hour, is salaried, and receives benefits which are not tied to seniority. On the other hand, bargaining unit employees work on a three-shift-per-day basis, are scheduled a half hour lunch period between 11-11:30 a.m., and are hourly paid.

Among the job duties of the plant storeroom specialist are maintaining an inventory of maintenance and engineering parts and equipment, safety supplies, soft drinks, gloves, and rainwear used by both unit employees and supervisors. In addition, Carney receives and stocks incoming supplies, issues material to other personnel, establishes inventory needs, and reorders supplies as necessary. In connection with his receiving duties Carney occasionally operates a forklift, primarily in situations where he is unable to locate a bargaining unit employee to assist him. The official procedure in issuing items from inventory requires that a supervisor

or foreman sign a requisition slip, which is then presented to Carney (either by the supervisor personally or by the requesting unit employee) in the storeroom. However, the record indicates that in practice maintenance employees frequently enter the storeroom and fill out their own requisition tickets for needed supplies.

Although much of his time is spent in his storeroom office—particularly at the time of the hearing due to his work associated with computerizing the storeroom information—Carney also makes regular trips throughout the plant to perform other duties. These responsibilities include monitoring and recording the plant's nitrogen use, checking on the proper functioning of fire extinguishers and equipment, and maintaining the toolroom. Carney also frequently visits the purchasing department to deliver requisition orders.

The record indicates that at times when Carney is absent from work no one is assigned to substitute for him. However, most deliveries are accepted by either the maintenance engineer, the guard, or the front office when Carney is unavailable.

While the evidence does not clearly establish when the classification of plant storeroom specialist was established, it is clear that Carney's duties have evolved in the manner described below since the beginning of his employment. Thus the record indicates that prior to Carney's employment the receiving/stocking aspects of his job were done by a single, part-time employee. In 1979 the Petitioner grieved the Employer's failure to include the receiver/stocker position within the bargaining unit, resulting in a settlement whereby the parties agreed that the job would be included when and if it became full time. Thereafter, in late 1980, Carney was hired and he acquired the stocking and receiving duties as well as the other responsibilities described above. Since that time the Petitioner has consistently asserted that the plant storeroom specialist is a unit position.²

² An arbitrator's decision on this issue was made a part of the record in this proceeding by agreement of the parties. While we have considered this evidence, along with all the other aspects of the record in this case, we hereby deny the Employer's motion to dismiss this case in deference to the arbitration award. "The determination of questions of representation, accretion, and appropriate unit do[es] not depend upon contract interpretation but involve[s] the application of statutory policy, standards, and criteria. These are matters for decision of the Board rather than an arbitrator." *Marion Power Shovel Company, Inc.*, 230 NLRB 576, 577-578 (1977), citing *Combustion Engineering, Inc.*, 195 NLRB 909 (1972); *Wil-*

It is clear from the record that the full-time plant storeroom specialist position currently embraces a variety of duties in addition to those encompassed by the subsumed receiver/stocker classification. Thus, although the classification may have previously been in existence, we conclude that it has undergone a substantial change since Carney assumed the position. Further, the Petitioner has diligently sought to include the present position, as well as the earlier part-time receiver/stocker classification, within the bargaining unit. In such circumstances, where the disputed job did not previously exist—at least in its present form—at the time of certification and the Union has consistently endeavored to establish its placement within the unit, a clarification question is squarely presented.³

Therefore, in light of the express language of both the certification and the parties' contract, the question becomes, as the Petitioner claims, whether the functions Carney performs are plant clerical in nature. We conclude that the duties comprising the disputed position, enumerated above, are essentially plant clerical. The maintenance of an inventory of equipment and supplies is a typical plant clerical function. The close relationship between the plant storeroom specialist's duties and the production and maintenance functions is evident.⁴ In view of the nature of Carney's duties, the fact that he is salaried rather than hourly rated is insufficient to preclude his inclusion within the production and maintenance unit. See *Filtrol Corporation*, 109 NLRB 1071 (1954); *Stauffer Chemical Company*, 108 NLRB 1037 (1954); *A. O. Smith Corporation, Air Frame Component Division*, 102 NLRB 1116 (1953). Accordingly, we shall clarify the unit to include the plant storeroom specialist position.

ORDER

It is hereby ordered that the certification in Case 23-RC-4549, heretofore issued to Oil, Chemical and Atomic Workers Local 4-367, AFL-CIO, be, and it hereby is, clarified by specifically including in the appropriate unit the classification of plant storeroom specialist.

liams Transportation Company, 233 NLRB 837 (1977); *Hershey Foods Corporation*, 208 NLRB 452 (1974).

³ Cf. *Lufkin Foundry and Machine Company*, 174 NLRB 556 (1969).

⁴ See *Exxon Company, U.S.A. Highland Uranium Operations*, 225 NLRB 10 (1976).